

Exhibit 1

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August 12, 2019

Michael J. Mcavoyamaya, Esq.
Michael J. Mcavoyama Law, LLC
4539 Paseo Del Ray Dr.
Las Vegas, Nevada 89121

RE: **Miller, Deborah et al. v. Service Employees International Union et al.**
United States District Court Case No.: 2:18-cv-304-RFB-CWH

Dear Mr. Mcavoyamaya,

At your request, I am providing you with this report of my opinions concerning economic damages alleged by Ms. Miller. The following sections of this report set forth my understanding of the background of this matter, the documents I have relied upon in arriving at my opinions and my analysis and opinions. Accompanying this report you will find a copy of my current CV, fee schedule and my expert trial and deposition testimony listing.

Background

It is my understanding that Ms. Miller is alleging economic damages relating to her alleged wrongful termination as a Lead Organizer with the AFL-CIO Local 1107 on January 8, 2018. Economic damages calculated as of this writing include the difference between Ms. Miller's earnings and benefits with Local 1107 and earnings and benefits obtained from post-termination employment.

Documents Reviewed

Documents utilized and/or reviewed by me in the preparation of my opinions in this matter include the documents noted below:

1. First Amended Complaint
 2. SEIU Affiliates Officers and Employees Pension Plan (Summary Plan Description)
 3. 2018 Tax Return For Debbie Miller
 4. 2016 Tax Return
 5. 2017 Wages and Earning Tax Statement
 6. 2017 Tax Return For Debbie Miller
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7. SEIU Nevada Local 1107 Health Insurance Costs Report
8. Pay Scale 2016
9. Davita Pay Stubs

Opinions

Economic damages in the form of lost earnings and benefits to Ms. Miller are calculated as the present value of her pre-termination earnings and benefits less the present value of post-termination employment earnings and benefits. The present value of Ms. Miller's earnings and benefits as if she had continued working for Local 1107 is calculated on Exhibit C - 1 and totals \$534,335. The present value of Ms. Miller's post-incident/mitigating earnings and benefits is calculated on Exhibit C - 2 and totals \$158,654. The difference of \$375,681 is calculated on Exhibit A and represents economic damages to Ms. Miller over a 5-year time period beyond the date of her termination. The value of employer-paid benefits is estimated at the rates set forth on Exhibit D. Pre-termination and post-termination earnings and benefits are estimated to increase at the rates noted on Exhibit F. Future earnings under the pre-termination and post-termination scenarios are discounted to present value using the U.S. Treasury Bond rates set forth on Exhibit E.

The above opinions are based upon analyses performed to date. I reserve the right to update this report based on information and/or events which may occur or become known to me in connection with the above referenced litigation proceedings. Such documentation and/or events may impact my analysis and that impact may be material. Thank you for the opportunity to serve you in this matter. If you have any questions concerning this report of my opinions, please call me.

Sincerely,

Kevin B. Kirkendall

Kevin B. Kirkendall, MBA, CPA, CFE

Kirkendall Consulting Group, L.L.C.

Appendix

| <u><i>Exhibit</i></u> | <u><i>Description</i></u> |
|-----------------------|---|
| Exhibit A | Damage Summary |
| Exhibit B | Basic Data |
| Exhibit C - 1 | Pre-termination Earnings and Benefits |
| Exhibit C - 2 | Post-termination (Mitigating) Earnings & Benefits |
| Exhibit D | Employer-paid Benefit Rates |
| Exhibit E | Investment Rates |
| Exhibit F | Earnings Growth Rates |

Miller, Deborah et al. v. Service Employees International Union et al.
Wrongful Termination Calculations
Damage Summary
Exhibit A

| | Economic Damages | |
|--|------------------|-------------------|
| Pre-Incident Earnings & Benefits (1) | \$ | 534,335 |
| Post-Incident (Mitigating) Earnings & Benefits (2) | | <u>158,654</u> |
| Lost Earnings & Benefits | | <u>\$ 375,681</u> |

Notes:

- (1) See Exhibit C - 1.
(2) See Exhibit C - 2.

Miller, Deborah et al. v. Service Employees International Union et al.

Wrongful Termination Calculations

Basic Data

Exhibit B

Basic Data:

| | |
|-------------------------------------|----------|
| Date of Termination | 01/08/18 |
| Date of Analyses | 08/12/19 |
| Date of Birth | 03/21/61 |
| Estimated loss years | 5.00 |
| Years since date of termination | 1.59 |
| Age at date of termination | 56.80 |
| Age at date of analysis | 58.39 |
| Remaining loss years | 3.41 |
| Date at end of estimated loss years | 01/08/23 |
| Age at end of estimated loss years | 61.80 |

Miller, Deborah et al. v. Service Employees International Union et al.**Wrongful Termination Calculations****Pre-termination Earnings & Benefits****Exhibit C - 1**

Notes The exhibit sets forth the calculation of Ms. Miller's pre-termination earnings and benefits from her employment as a Lead Organizer with the AFL-CIO, Local 1107 in Las Vegas, Nevada, pre-termination earnings are calculated on an annual basis over a 5-year period from the date of her termination on January 8, 2018, through January 8, 2023. Ms. Miller's annual earnings are calculated to increase annually at the estimated wage growth rates on Exhibit E. Annual benefits are based upon Ms. Miller's actual benefits utilizing the rate set forth on Exhibit D plus the auto allowance of \$500 per month.

Annual Earnings \$ 67,564
 Employer-paid Fringe Benefits (2) 46.57%

Past Earnings & Benefits

| Beginning | End | Period | Age | Cumulative | Annual Earnings | Employer | | Monthly Auto Allowance (5) | Total | | Present Value | Cumulative Present Value |
|-------------------------------------|----------|--------|-------|-----------------------|-----------------|-------------------|----|----------------------------|-------------------------|---|---------------|--------------------------|
| | | | | Number of Periods (3) | | Paid Benefits (4) | | | Earnings & Benefits (6) | | | |
| 01/09/18 | 12/31/18 | 0.98 | 49.00 | 0.98 | 66,079 | \$ 30,771 | \$ | 5,868 | \$ 102,718 | - | \$ 102,718 | \$ 102,718 |
| 01/01/19 | 08/12/19 | 0.61 | 50.00 | 1.59 | 42,245 | 19,672 | | 3,676 | 65,593 | - | 65,593 | 168,311 |
| Total Past Lost Earnings & Benefits | | | | | | | | | | | \$ 168,311 | |

Future Earnings & Benefits

| Future Earnings & Benefits | | | | Cumulative | Annual | Employer | | Total | | | | Cumulative | | |
|---|----------|--------|-------|-------------|----------|----------|--------------|---------------|--------------|------------|------------|------------|------------|--|
| | | | | Number of | Earnings | | Paid | Monthly Auto | Earnings & | Investment | Discount | Present | | |
| Beginning | End | Period | | Periods (3) | | | Benefits (4) | Allowance (5) | Benefits (6) | Rate (7) | Factor (8) | Value (9) | | |
| | | | | | | | | | | | | Value | | |
| 08/13/19 | 12/31/19 | 0.38 | 52.00 | 0.38 | 26,522 | \$ | 12,350 | \$ | 41,179 | 1.97% | 1.00000 | \$ 41,179 | \$ 209,491 | |
| 01/01/20 | 12/31/20 | 1.00 | 53.00 | 1.38 | 70,473 | | 32,817 | 6,000 | 109,290 | 1.68% | 0.97724 | 106,802 | 316,293 | |
| 01/01/21 | 12/31/21 | 1.00 | 54.00 | 2.38 | 72,024 | | 33,539 | 6,000 | 111,562 | 1.55% | 0.96396 | 107,542 | 423,835 | |
| 01/01/22 | 12/31/22 | 1.00 | 55.00 | 3.38 | 73,608 | | 34,277 | 6,000 | 113,885 | 1.50% | 0.95095 | 108,299 | 532,134 | |
| 01/01/23 | 01/08/23 | 0.02 | 55.00 | 3.40 | 1,498 | | 698 | 120 | 2,316 | 1.50% | 0.95070 | 2,201 | 534,335 | |
| Total Future Earnings & Benefits | | | | | | | | | | | | \$ | 366,024 | |
| Total Past and Future Earnings & Benefits | | | | | | | | | | | | \$ | 534,335 | |

Notes:

- (1) Based upon Ms. Miller's W-2 earnings for 2017.
- (2) See Exhibit D.
- (3) Represents the number of periods over which future earnings and benefits are to be discounted to arrive at present value.
- (4) Calculated as the employer-paid benefit percentage from Exhibit D multiplied by the annual earnings in each respective period.
- (5) Monthly auto allowance was paid to Ms. Miller of \$500 per month or \$6,000 per year.
- (6) Calculated as the sum of the annual earnings and the value of the employer-paid benefits.
- (7) Represents the rate at which money can be invested, on the date specified, to provide the lost earnings and benefits. For the first future period discounting is not performed based upon the assumption that earnings are already stated at present value. See Exhibit E.
- (8) The discount factor is calculated as follows: $1 / (1 + i)^n$ where i = the reinvestment rate and n = the number of periods (or fraction thereof) over which earnings and benefits are to be discounted to present value.
- (9) Calculated as the discount factor multiplied by the annual pre-injury earnings and benefits (except in first year).

Miller, Deborah et al. v. Service Employees International Union et al.
Wrongful Termination Calculations
Post-termination (Mitigating) Earnings & Benefits
Exhibit C - 2

Notes The exhibit sets forth the calculation of Ms. Miller's post-termination earnings and benefits from her replacement employment as a patient service representative with Healthcare Partners. Ms. Miller obtained employment with Healthcare Partners on March 19, 2019. Her annual earnings are based upon her actual 2018 earnings adjusted for the time period between her termination and her hire date with Healthcare Partners. Employer-paid benefits include the governmentally required benefits and paid time off. Annual earnings are calculated to increase annually at the estimated wage growth rates on Exhibit E. Annual benefits are based upon Ms. Miller's actual benefits utilizing the rate set forth on Exhibit D.

Annual Earnings \$ 28,930
Employer-paid Fringe Benefits (2) 7.54%

Past Earnings & Benefits

| Beginning | End | Period | Age | Cumulative | Annual | Employer | Total | | | | | Present | Cumulative |
|-------------------------------------|----------|--------|-------|-------------|----------|--------------|-------------------------|---|---|----|--------|------------------|---------------|
| | | | | Number of | | | | | | | | | |
| | | | | Periods (3) | Earnings | Benefits (4) | Earnings & Benefits (5) | | | | | Value | Present Value |
| 01/09/18 | 12/31/18 | 0.98 | 49.00 | 0.98 | 28,294 | \$ 2,132 | \$ 30,426 | - | - | \$ | 30,426 | \$ | 30,426 |
| 01/01/19 | 08/12/19 | 0.61 | 50.00 | 1.59 | 18,088 | 1,363 | 19,452 | - | - | | 19,452 | | 49,878 |
| Total Past Lost Earnings & Benefits | | | | | | | | | | | | <u>\$ 49,878</u> | |

Future Earnings & Benefits

| Beginning | End | Period | | Cumulative | Annual | Employer | Total | Investment | Discount | | Present | Cumulative |
|---|----------|--------|-------|-------------|----------|--------------|-------------------------|------------|------------|----|-------------------|---------------|
| | | | | Number of | | | | | | | | |
| | | | | Periods (3) | Earnings | Benefits (4) | Earnings & Benefits (5) | Rate (6) | Factor (7) | | Value (8) | Present Value |
| 08/13/19 | 12/31/19 | 0.38 | 52.00 | 0.38 | 11,356 | \$ 856 | \$ 12,212 | 1.97% | 1.00000 | \$ | 12,212 | \$ 62,089 |
| 01/01/20 | 12/31/20 | 1.00 | 53.00 | 1.38 | 30,175 | 2,274 | 32,449 | 1.68% | 0.97724 | | 31,710 | 93,800 |
| 01/01/21 | 12/31/21 | 1.00 | 54.00 | 2.38 | 30,839 | 2,324 | 33,163 | 1.55% | 0.96396 | | 31,968 | 125,768 |
| 01/01/22 | 12/31/22 | 1.00 | 55.00 | 3.38 | 31,517 | 2,375 | 33,893 | 1.50% | 0.95095 | | 32,230 | 157,998 |
| 01/01/23 | 01/08/23 | 0.02 | 55.00 | 3.40 | 642 | 48 | 690 | 1.50% | 0.95070 | | 656 | 158,654 |
| Total Future Earnings & Benefits | | | | | | | | | | | <u>\$ 108,776</u> | |
| Total Past and Future Earnings & Benefits | | | | | | | | | | | <u>\$ 158,654</u> | |

Notes:

- (1) Based upon Ms. Miller's W-2 earnings for 2017.
- (2) See Exhibit D.
- (3) Represents the number of periods over which future earnings and benefits are to be discounted to arrive at present value.
- (4) Calculated as the employer-paid benefit percentage from Exhibit D multiplied by the annual earnings in each respective period.
- (5) Calculated as the sum of the annual earnings and the value of the employer-paid benefits.
- (6) Represents the rate at which money can be invested, on the date specified, to provide the lost earnings and benefits. For the first future period discounting is not performed based upon the assumption that earnings are already stated at present value. See Exhibit E.
- (7) The discount factor is calculated as follows: $1 / (1 + i)^n$ where i = the reinvestment rate and n = the number of periods (or fraction thereof) over which earnings and benefits are to be discounted to present value.
- (8) Calculated as the discount factor multiplied by the annual pre-injury earnings and benefits (except in first year).

Miller, Deborah et al. v. Service Employees International Union et al.**Wrongful Termination Calculations****Employer-Paid Benefit Rates****Exhibit D**

Note: This exhibit sets forth the benefits as a percentage of wages utilized in estimating the value of Ms. Miller's employer-paid benefits with Local 1107 based upon actual benefits received and the percentages obtained from Employer Costs for Employee Compensation - March 2019, Bureau of Labor Statistics, United States Department of Labor. Specifically, rates are those for Private Industry Workers in Unions, Table 5. Percentages for Ms. Miller's employment by Healthcare Partners is taken from the same table but for employees in the Education and Health Services.

| | Private Industry Workers - Union | Service-Providing Education & Health Services |
|--|-------------------------------------|--|
| Wages & Salaries as a percentage of total compensation | 59.70% | 69.00% |
| Insurance | | |
| Medical | 13.70% | 0.00% |
| Life Insurance | <u>0.20%</u> | <u>0.00%</u> |
| | 13.90% | 0.00% |
| Retirement | 8.70% | 0.00% |
| Legally Required Benefits | | |
| Social Security | 4.20% | 4.20% |
| Medicare | <u>1.00%</u> | <u>1.00%</u> |
| Total Benefits | <u>27.80%</u> | <u>5.20%</u> |
| Benefits as a Percentage of Wages and Salaries | <u>46.57%</u> | <u>7.54%</u> |

Miller, Deborah et al. v. Service Employees International Union et al.

Wrongful Termination Calculations

Investment Rates

Exhibit E

Note: This exhibit contains U.S. Treasury Notes & Bond rates taken from the Wall Street Journal on August 12, 2019.

| Year | Investment Rate |
|------|--------------------|
| 2019 | 1.97% |
| 2020 | 1.68% |
| 2021 | 1.55% |
| 2022 | 1.50% |
| 2023 | 1.50% |
| 2024 | 1.50% |

*Miller, Deborah et al. v. Service Employees International Union et al.***Personal Injury Economic Analysis****Earnings Growth Rates****Exhibit F**

Note: Historical growth rates are the average annual wage growth rates reported in the 2018 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds. Growth rates for future periods are the estimated growth rates in the same report. Specifically, see the intermediate assumptions for the average annual wage in covered employment for the corresponding years, Table V.B1., Principal Economic and Assumptions.

| Past Rates | Year | Wage Growth Rate | CPI |
|------------|------|------------------------|--------|
| | 2002 | 0.68% | 1.38% |
| | 2003 | 2.52% | 2.22% |
| | 2004 | 4.67% | 2.61% |
| | 2005 | 3.70% | 3.52% |
| | 2006 | 4.72% | 3.19% |
| | 2007 | 4.50% | 2.88% |
| | 2008 | 1.93% | 4.09% |
| | 2009 | 0.79% | -0.67% |
| | 2010 | 1.23% | 2.07% |
| | 2011 | 2.06% | 3.56% |
| | 2012 | 1.84% | 2.10% |
| | 2013 | 1.61% | 1.37% |
| | 2014 | 1.80% | 1.50% |
| | 2015 | 1.08% | -0.41% |
| | 2016 | 1.28% | 0.98% |
| | 2017 | 1.81% | 2.13% |

| Future Rates | Year | Growth Rate | CPI | Year | Growth Rate | CPI |
|--------------|------|-------------|-------|------|-------------|-------|
| | 2018 | 1.97% | 2.23% | 2040 | 2.20% | 2.60% |
| | 2019 | 2.06% | 2.50% | 2041 | 2.20% | 2.60% |
| | 2020 | 2.20% | 2.60% | 2042 | 2.20% | 2.60% |
| | 2021 | 2.20% | 2.60% | 2043 | 2.20% | 2.60% |
| | 2022 | 2.20% | 2.60% | 2044 | 2.20% | 2.60% |
| | 2023 | 2.20% | 2.60% | 2045 | 2.20% | 2.60% |
| | 2024 | 2.20% | 2.60% | 2046 | 2.20% | 2.60% |
| | 2025 | 2.20% | 2.60% | 2047 | 2.20% | 2.60% |
| | 2026 | 2.20% | 2.60% | 2048 | 2.20% | 2.60% |
| | 2027 | 2.20% | 2.60% | 2049 | 2.20% | 2.60% |
| | 2028 | 2.20% | 2.60% | 2050 | 2.20% | 2.60% |
| | 2029 | 2.20% | 2.60% | 2051 | 2.20% | 2.60% |
| | 2030 | 2.20% | 2.60% | 2052 | 2.20% | 2.60% |
| | 2031 | 2.20% | 2.60% | 2053 | 2.20% | 2.60% |
| | 2032 | 2.20% | 2.60% | 2054 | 2.20% | 2.60% |
| | 2033 | 2.20% | 2.60% | 2055 | 2.20% | 2.60% |
| | 2034 | 2.20% | 2.60% | 2056 | 2.20% | 2.60% |
| | 2035 | 2.20% | 2.60% | 2057 | 2.20% | 2.60% |
| | 2036 | 2.20% | 2.60% | 2058 | 2.20% | 2.60% |
| | 2037 | 2.20% | 2.60% | 2059 | 2.20% | 2.60% |
| | 2038 | 2.20% | 2.60% | 2060 | 2.20% | 2.60% |
| | 2039 | 2.20% | 2.60% | 2061 | 2.20% | 2.60% |